

## **PUBLIC HEARING AND REGULAR MEETING**

**City of Hampton Wetlands Board  
City Council Chambers, 9<sup>th</sup> floor, City Hall  
January 28, 2003**

**PRESENT:** Chairman William M. Snider, II, and Board Members Lillian Bellamy, Gayle Cozzens, and Thomas W. Morris.

### **ITEM I. CALL TO ORDER**

and

### **ITEM II. ROLL CALL.**

Chairman Snider called the meeting to order at 5:00 p.m., introducing each of the Board Members present, noting that Vice-Chairman Wood was absent due to medical reasons. Staff persons in attendance were Ed Haughton, Brian Ballard, Sharon McSmith, and Greg Goetz of the Hampton Planning Department, Gail Hicks of the Hampton Engineering Division, and Mark Eversole of the Virginia Marine Resources Commission (VMRC).

### **ITEM III. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN.**

Chairman Snider turned the meeting over to the Staff Coordinator, Ed Haughton, who requested nominations for Chairman of the Wetlands Board.

A motion was made by Board Member Bellamy and seconded by Board Member Morris to elect William M. Snider, II, to a one-year term as Chairman of the Hampton Wetlands Board. A roll call vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Morris
NAYS:	None
ABST:	Snider
ABSENT:	Wood

Mr. Haughton requested nominations for Vice-Chairman of the Wetlands Board.

A motion was made by Chairman Snider and seconded by Board Member Cozzens to nominate William L. Wood to a one-year term as Vice-Chairman of the Hampton Wetlands Board. A roll call vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Morris, Snider
NAYS:	None
ABST:	None
ABSENT:	Wood

Chairman Snider stated he appreciated the support of the Wetlands Board members.

#### **ITEM IV. CONSIDERATION OF MINUTES.**

There being no additions or corrections, a motion was made by Board Member Morris and seconded by Board Member Cozzens to approve the minutes of the November 26, 2002 Wetlands Board meeting. A voice vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Morris, Snider
NAYS:	None
ABST:	None
ABSENT:	Wood

#### **ITEM V. JOINT APPLICATION (PUBLIC HEARING ITEM).**

Chairman Snider stated that it takes three affirmative votes to approve an application. He offered the applicants the opportunity to defer action on their applications to the next meeting in hopes of having a full Board (it was noted that Board Member Bellamy would not be present at the February Board meeting). Both applicants chose to have their applications heard.

Chairman Snider read the public hearing notice on the next agenda item:

Application No. 02-1764, by Langley Air Force Base to construct riprap revetments on two sites, 285 and 565 linear feet, respectively, along the shoreline of **Langley Air Force Base Marina** on the Southwest Branch of Back River, a tributary to the Chesapeake Bay.

Mr. Haughton presented the staff report, a copy of which is attached hereto and made a part hereof. He stated that staff recommended approval of the application, subject to four conditions.

In response to a concern by Chairman Snider about the significant amount of rubble existing in front of the proposed toe, Mr. Tom Whittkamp of the Environmental Section of Langley Air Force Base stated they will remove all of the asphalt and will try to clean up the other structures in order for the spartina to grow.

In response to Chairman Snider's comment that all of Langley's other projects have been excellent and there is no significant vegetation being impacted, Mr. Whittkamp stated they will try to enhance the project area.

There being no additional speakers or discussion, a motion was made by Board Member Morris and seconded by Board Member Cozzens to approve Application No. 02-1764 subject to the following four conditions:

1. The approved, staked alignment of the proposed riprap revetment shall remain in place until installation of the revetment.
2. The riprap revetment shall be placed on filter cloth at a slope generally of 2.5:1 and shall not extend channelward of the staked toe.
3. Should construction result in any disturbance to the existing Chesapeake Bay Resource Protection buffer, the buffer shall be returned to a condition substantially similar to its pre-permit condition.
4. Maintenance of this structure shall not exceed the limits of this permit and shall be limited to materials stipulated in this permit, unless otherwise approved by the Staff Coordinator. The Wetlands Board shall be notified prior to any maintenance activity.

A roll call vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Morris, Snider
NAYS:	None
ABST:	None
ABSENT:	Wood

Chairman Snider read the public hearing notice on the next agenda item:

Application No. 02-2235, by William Neff to construct a 70+ linear foot timber bulkhead on the shoreline of the property at **13 Melissa Court**, on Harris River, a tributary to Back River and the Chesapeake Bay.

Mr. Haughton presented the staff report, a copy of which is attached herewith and made a part hereof. He stated that staff recommended approval of the application subject to five conditions.

In response to a concern by Chairman Snider relating to the rebar that is flat against the portion of the standing bulkhead, the contractor, Mr. Ed Call, stated the bulkhead has failed and there should not be a problem pulling it out.

In response to Chairman Snider's concern relating to the concrete bulkhead, Mr. Call stated they will eventually remove the old concrete, but the Army (Corps of Engineers) took exception (to their original proposal) and ordered it pulled back further so the spartina can grow better.

Chairman Snider stated some of the bulkhead seems fairly stable, and to pull out the old concrete and put in a new bulkhead shouldn't be a problem; also, there is no additional encroachment into the marsh grass.

There being no additional speakers or discussion, a motion was made by Board Member Cozzens and seconded by Board Member Morris to approve Application No. 02-2235 subject to the following five conditions:

1. The approved, staked alignment of the proposed bulkhead shall remain in place until installation of the bulkhead.
2. Filter cloth shall be placed behind all sections of the bulkhead.
3. A silt fence shall be placed along the landward edge of the bulkhead until the fill area has been stabilized with vegetation.
4. Should construction result in any disturbance to the existing Chesapeake Bay Resource Protection buffer, the buffer shall be returned to a condition substantially similar to its pre-permit condition.
5. Maintenance of this structure shall not exceed the limits of this permit and shall be limited to materials stipulated in this permit, unless otherwise approved by the Staff Coordinator. The Wetlands Board shall be notified prior to any maintenance activity.

A roll call vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Morris, Snider
NAYS:	None
ABST:	None
ABSENT:	Wood

#### **ITEM VI. STAFF REPORT.**

##### City of Hampton Extension/John Tyler Elementary School

Mr. Haughton stated the Board has a request by the City of Hampton for an extension to its ditch dredging application at John Tyler Elementary School. He stated the City has not been able to get to the project and, although the City is requesting a 90-day extension, staff recommends extending the application for one year.

There being no additional speakers or discussion, a motion was made by Board Member Bellamy and seconded by Board Member Cozzens to extend Application No. 02-0049 for one year, the amended completion date for the project being February 26, 2004. A roll call vote on the motion resulted as follows:

AYES:	Bellamy, Cozzens, Morris, Snider
NAYS:	None
ABST:	None
ABSENT:	Wood

##### Hampton Roads Marine (Bluewater Yacht Sales, Inc.)

Mr. Haughton stated that the Board had given Bluewater Yacht Sales, Inc. (Hampton Roads Marine) until January 31, 2003, to remove the small stone under the pier and bulkhead, and as of earlier this week nothing had transpired; Bluewater is still in violation of their permit.

Chairman Snider stated that Bluewater has until January 31<sup>st</sup> to remove the stone; if they have not done so, he requested Mr. Haughton send a letter to Bluewater requesting another show-cause at the next Board meeting as to why they did not meet the imposed deadline.

### Hampton University

Mr. Haughton stated there is no change in relation to Hampton University's violation. There has been some discussion between staff and representatives of Hampton University concerning their providing as-built drawings as part of their restoration plan; they say it is coming, though we do not know when.

For public information, Chairman Snider stated what has transpired in previous meetings is the notice of the buffer restoration problem and the fact that they have not planted spartina in the mudflat like they said they would. The Board received a letter from the contractor last month stating basically it was the Board's fault because, in their opinion, a prior Board Member, Tyla Matteson, was going to apply for a grant to help them with the project, which we know is not true; she simply let the University know that the information was available. The Board has not responded to that letter because it is his understanding that it is supposed to be addressed in the buffer restoration plan. They are in violation of their wetlands permit because of the buffer restoration, in addition to being in violation of the Chesapeake Bay Preservation District permit. Everyone is waiting for the buffer restoration plan to figure out what we are going to do or whether there is anything left that we need to do.

Mr. Greg Goetz, Chief Planner, stated his perspective of the project is a little broader than the Board's because his role is tied more to the site plan, particularly the landscape improvement plan. Since he works very closely with Mr. Haughton, he is aware of the conditions applied to the permit. There is a lot of overlap; the University has not necessarily adhered to their site plan—they deviated from the limits of clearing which translates into a buffer violation of the Chesapeake Bay Preservation District regulations as well as their site plan. That, coupled with the wetlands condition that says they must restore the buffer to its pre-development state, is where the overlap occurs. He stated he has had a discussion with a representative of Armada/Hoffler, John Lestyan, who inquired as to what they need to do to make things right; they discussed all the particulars of the project as to where there was non-compliance. Mr. Lestyan indicated he would hire a contractor to essentially do a physical survey of the project and submit something very close to an as-built plan for the entire development, and then the Planning staff and representatives of the site plan review committee would review the plan to determine what issues we have—we go beyond the Wetlands Board concerns, but certainly the Board's concerns are at the top; generally most of the conflict occurs along the shoreline. We have not received anything since that conversation in early December.

In response to Chairman Snider's statement that the letter came from Mark Mills of Dominion Site Contracting, Mr. Goetz stated that Armada/Hoffler has most likely sub-

contracted with them to generate the as-builts. He expected it soon after the first of the year.

Chairman Snider stated the Board will wait to see what the plan shows. Even if they do the landward part of the buffer restoration to the original site plan and landscape plan, if they are not going to plant spartina in the mudflat in the cove, then they are still in violation of their wetlands permit because one of the conditions of us approving that massive project is they were going to plant 8,000 square feet in that mudflat.

Mr. Gene Cone, 1341 Coral Place, questioned why the Board did not give them a deadline and questioned if it was because the applicant is Hampton University; he stated if it was an ordinary citizen in violation, the Board would be "down their back."

Chairman Snider stated the means that we have to enforce any of these are very limited; if we are working on the restoration plan as a second issue within the Planning Department, it is not very productive to issue deadlines that you cannot back up with any kind of enforcement --we are working on the enforcement as a second issue.

Mr. Goetz stated if the Board is inclined to impose a deadline regarding the spartina, there is a window of opportunity of planting that particular plant, with Spring being the optimal time, and after June it may not be very successful; that was part of the University's reasoning why they hadn't planted last summer, though one may say they did have the Spring prior.

Chairman Snider stated if it is not done by February, then we need to start the process of starting to force them to plant when it is appropriate.

Ms. Gail Hicks, from the Engineering Division of Public Works, stated she wanted to confirm that the conversation Mr. Goetz had with the Armada/Hoffler representative was in November and not December.

#### **ITEM VII. MATTERS BY THE BOARD MEMBERS.**

Chairman Snider announced that Traycie West was on family leave with her new baby (second daughter), and that Mark Eversole of VMRC will be assisting us while she is on leave.

Brian P. Ballard, City Planner, was introduced to the Board. Chairman Snider stated that Brian will soon be the Board's primary point of contact relating to wetlands issues as well as to Chesapeake Bay Review Committee issues.

Mr. Haughton stated that the City has received a letter from someone wanting to harvest phragmites.

In response to a question by Chairman Snider concerning who would be responding to the letter, Mr. Haughton stated the letter came to the Planning Department who will be sending a response.

For the public's information, Chairman Snider stated the person wants to go onto certain areas of public land, and as long as he does not dig them up, the State Code says he can do it. The person wants to harvest phragmites; there is a commercial application where they can extract oil from them for another use, that he can get \$4-\$6 per bundle, and the person states they also make good thatch roofs.

Mr. Haughton stated another letter was placed in front of the Board members before the meeting regarding the joint permit applications. There is new information and language in the Ordinance that will create more of a link between the Chesapeake Bay Act and the action that is taken by this Board.

#### **ITEM VIII. MATTERS BY THE PUBLIC.**

There were no matters presented by the public.

In response to a question by Board Member Morris concerning the annual wetlands symposium, Mr. Eversole stated they are tentatively working towards having it the afternoon of a weekday in late February at VIMS. Mr. Haughton stated he will notify the Board as soon as he becomes aware of the date.

#### **ITEM IX. ADJOURNMENT.**

There being no additional items to come before the Board, the meeting was adjourned at 5:35 p.m.

Respectfully submitted,

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Edward J. Haughton, City Planner  
Secretary to the Board

APPROVED BY:

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William M. Snider, II  
Chairman, Hampton Wetlands Board